

E-141/C-93-106 ORDER REQUIRING REVISION OF COMPLAINT AND ANSWER

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner

In the Matter of a Formal  
Complaint Regarding Stray  
Voltage Against Stearns  
Cooperative Electric Association

ISSUE DATE: June 11, 1993

DOCKET NO. E-141/C-93-106

ORDER REQUIRING REVISION OF  
COMPLAINT AND ANSWER

**PROCEDURAL HISTORY**

On February 1, 1993, a petition identified as a formal complaint was filed with the Commission alleging problems with the stray voltage policies and procedures of Stearns Cooperative Electrical Association (Stearns).

On May 21, 1993, the Commission issued notice that it would meet on May 27, 1993 to consider acceptance of the petition.

On May 27, 1993, the Commission met to consider this matter.

**FINDINGS AND CONCLUSIONS**

**Jurisdiction Over This Complaint**

Minn. Stat. § 216B.17 (1992) authorizes the Commission to investigate the service standards and practices of any utility, including a cooperative electric association, on the Commission's own motion or upon complaint by 50 consumers of the utility.

The subject matter of this complaint is appropriate for Commission consideration. Item 3 of the Petition in question specifically mentions numerous service quality issues and Items 1 and 2 refer generally to service practices. These allegations fall squarely within the terms of Minn. Stat. § 216B.17 (1992).

It is unclear, however, whether complaint is signed by the requisite number of "consumers," as that term appears in Minn. Stat. § 216B.17, subd. 1 (1992), to give the Commission

jurisdiction over this complaint. In past dockets the Commission has determined that for purposes of counting consumers in this situation there is only one "consumer" per meter even though several persons may use or are members of the household benefiting from the electricity flowing through that meter.

In this case, there are multiple names with the same addresses. Each signature may not represent a separate metered account. This factual uncertainty would need to be clarified before the Commission is able to determine whether an adequate number of Stearns consumers have signed the complaint. Although the Commission could always assume jurisdiction on its own motion regardless of the number of consumer signatories, the Commission is not inclined to do so at this time. To clarify the 50 consumer requirement, the Commission notes that the statute does not require that each consumer signing the complaint be personally affected by the service complained of, only that he/she be a consumer (as previously defined) of the utility that is the object of the complaint.

#### Filing Requirements

The form of a formal complaint is governed by Minn. Rules, parts 7830.1300 through 7830.1700:

Minn. Rules, part 7830.1300 requires that a complaint state the names and addresses of all the complainants and respondent without abbreviation. The complaint at hand meets that requirement. The rule also requires that the complaint state the name and address of the complainants' attorney, if any. The requirement is inapplicable because the complainants appear to have no attorney.

Minn. Rules, part 7830.1700 requires that every formal complaint be personally subscribed by the complainant or by a person authorized to appear on behalf of the complainant. This requirement appears to be satisfied. In addition, the rule requires that the facts alleged be verified under oath by a complainant. In this case, the facts alleged in the complaint are verified under oath by two of the complainants. Consistent with the Commission's determination that the grievance complained of need not directly affect each consumer signing the complaint, it is not necessary that each complainant (i.e. each person signing the complaint) verify under oath the facts alleged in the complaint so long as all the facts alleged in the complaint are verified by at least one of the complainants. Accordingly in this case, verification under oath of the complaints' facts by two complainants is sufficient to satisfy the rule's requirement.

Minn. Rules, part 7830.1400 requires that formal complaints 1) identify what statutes or rules have been allegedly violated<sup>1</sup> and 2) state briefly and in plain language the facts that constitute the violation and the relief sought. The Commission finds that the formal complaint in question fails to comply with these requirements. The complaint does not state what statute or rule has allegedly been violated. More important, the complaint does not state facts in support of the petition, but requires the reader to make inferences based on the three remedies listed. This is an unsatisfactory substitute for the plain language that the rule requires. For example, it would be helpful if the complaint 1) clearly identified each signing complainant who owns livestock allegedly affected by stray voltage, 2) explained why the complainant believes that it is stray voltage that is affecting his/her livestock, 3) described for each such complainant the magnitude and duration of the stray voltage problem on his/her farm, 4) stated what steps the complainant and Stearns have taken to remedy the problem and the effect of those steps, and 5) stated what changes in Stearns' policies and practices are desired.<sup>2</sup>

#### Commission Action

The Commission wishes to address the merits of complainants' concerns in the most efficient and thorough manner possible. A clear statement of the facts underlying each claim, as envisioned by the complaint rules, will be very helpful in moving to resolve these matters. In a previous case involving allegations of stray voltage, the Commission reviewed a complaint whose summary language has been adopted verbatim by the complainants in this case. Faced with the complaint's lack of clarity, the Commission convened a pre-hearing conference between the complainants in that case, the utility, the Department, and Commission Staff to clarify the issues and elucidate the claims. Following that conference, the Commission met and determined that, based in large part upon the clarifications made in the pre-hearing conference that it would not dismiss the complaint for lack of specificity, as urged by the utility. In the Matter of the Complaint Against Lake Region Cooperative Electric Association, Docket No. E-119/C-92-318 ORDER INITIATING INVESTIGATION (November 17, 1992).

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<sup>1</sup> A similar requirement is imposed by Minn. Rules, part 7830.1500 which requires the complaint to identify any tariff related to the practice complained of whenever practicable.

<sup>2</sup> Note that the facts required by 2) and 3) would have to be verified under oath by at least one complainant, pursuant to Minn. Rules, part 7830.1700.

In the current case, the Commission will pursue clarification of the complaint through a slightly modified process. It will require the complainants to meet with the Department to work on revising the complaint so that it fully meets all the requirements of law, including that it "advise fully and completely" the utility and the Commission regarding complainants' claims, as required by Minn. Rules, part 7830.1400.

Complainants will file the revised complaint with the Commission and at the same time serve the revised complaint upon the Respondent for answer. In its answer to be filed within 20 days after service of the revised complaint pursuant to Minn. Rules, part 7830.1900, the utility should address 1) the sufficiency of the complaint, including the sufficiency of the number of "consumers" signing the complaint as that issue was discussed previously in this Order, and 2) the merits of the revised complaint.

Following receipt of the complainants' revised complaint and Stearns' answer, the Commission will meet to review this matter and take whatever steps are appropriate based on its determination.

#### ORDER

1. Complainants and the Minnesota Department of Public Service (the Department) shall meet in a timely manner to revise the complaint so that it fully complies with applicable Commission rules for Complaints.
2. Complainants shall serve copies of the revised complaint upon the utility and the Department by mail when they file the revised Complaint with the Commission.
3. Within 20 days after the filing of the revised complaint, Stearns shall file an answer to the complaint.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

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